

REMARKS

The Office Action dated April 6, 2004, has been received and carefully considered. In this response, claims 1, 6, 14, 16, and 20 have been amended, claims 23 and 24 have been added, and the Abstract has been replaced. Entry of added claims 23 and 24, the amendments to the claims 1, 6, 14, 16, and 20, and the replacement of the Abstract, is respectfully requested. Reconsideration of the outstanding objections/rejections in the present application is also respectfully requested based on the following remarks.

Applicants note with appreciation the indication on page 13 of the Office Action that claims 6, 14, and 20 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants have opted to defer rewriting the above-identified claims in independent form pending reconsideration of the arguments presented below with respect to the rejected independent claims.

I. THE OBJECTION TO THE ABSTRACT

On page 2 of the Office Action, the Abstract was objected to because the phrase "is output" was deemed inappropriate. Applicants have replaced to Abstract as indicated in Appendix A.

In view of the foregoing, it is respectfully requested that the aforementioned objection to the Abstract be withdrawn.

II. THE OBJECTION TO VARIOUS CLAIMS

On page 2 of the Office Action, various claims were objected to because of several informalities. The phrase "the primary mode" in Claim 1 was deemed inappropriate, as was the term "were" in claims 6, 14, and 20, the phrase "is it" in claims 6, 14, and 20, the phrase "if is" in claims 6, 14, and 20, and the term "node" in claim 16.

In each case, Applicants have followed the Examiner's suggested amendment to overcome the pending objection. In view of the foregoing, it is respectfully requested that the aforementioned objection to claims 1, 6, 14, 16, and 20 be withdrawn.

III. THE OBVIOUSNESS REJECTION OF CLAIMS 1-5, 7-13, 15-19, AND 21-22

On page 3 of the Office Action, claims 1, 2, 4, 5, 7-10, 12, 13, 15, 16 and 22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Shinbashi et al. (U.S. Patent No. 5,796,717) in view of Leung et al. (U.S. Patent No. 6,111,852).

On page 9 of the Office Action, claims 3 and 11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Shinbashi et al. in view of Leung et al. as applied to claims 9

and 1, and further in view of Adams, Jr. et al. (U.S. Patent No. 5,444,782)

On page 10 of the Office Action, claims 17-19 and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Leung et al. in view of Isoyama et al. (U.S. Patent No. 6,680,946).

These rejections are hereby respectfully traversed.

Regarding independent claim 9, the Examiner asserts that Shinbashi et al. fails to explicitly disclose "synchronizing means operatively connected to the primary node and the backup node for synchronizing the at least one backup node and the primary node."¹ The Examiner further asserts, however, "Leung et al. clearly disclose[s] such synchronizing means (see Fig. 2: blocks 50 and 70 (synchronizing means); see abstract: the remote network processor (back-up node) is periodically updated with configuration data obtained from the inservice local network processor (primary node) hence, synchronization and data is replicated; and see Col. 7, line 49-Col. 8, line 9: INSV block 24 (primary node) is operating as a routing, it is important

¹ On page of the Office Action, the Examiner states that claim 1 is rejected for the same reason as claim 9 because the apparatus in claim 9 can be used to practice the method steps of claim 1.

that operating data periodically transferred (hence synchronizing) to the remote ERS NP 28 (back-up node)).

Applicants respectfully submit the §103(a) rejections of claims 1-5, 7-13, 15-19, and 21-22 are improper and must be withdrawn. Section 103(c) of the U.S. Patent Laws states as follows:

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, ***shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.***

(emphasis added).

Leung et al., which may normally qualify as prior art under §102(e), was owned by the same entity which owned the claimed invention, or was subject to an obligation of assignment to the same entity as the claimed invention, at the time the invention was made. Accordingly, Leung et al. cannot preclude patentability of the pending claims under an obviousness rejection.

The remaining independent claims (e.g., claims 1 and 17) recite related subject matter to independent claim 9, and are therefore allowable for reasons similar to those given above.

The dependent claims 2-5, 7-8, 10-13, 15-16, 18-19, and 21-24, are allowable at least by virtue of their dependency on the above-identified independent claims.

In view of the foregoing, it is respectfully requested that the aforementioned obviousness rejection of claims 1-5, 7-13, 15-19, and 21-22 be withdrawn.

IV. CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

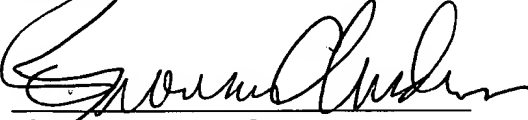
To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-0206, and please credit any excess fees to the same deposit account.

Respectfully submitted,

Hunton & Williams LLP

By:



Thomas E. Anderson

Registration No. 37,063

TEA/OAF/dja

Hunton & Williams LLP
1900 K Street, N.W.
Washington, D.C. 20006-1109
Telephone: (202) 955-1500
Facsimile: (202) 778-2201

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